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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fourth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 65th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 17 November 2000, at 4.25 p.m.

Chairperson: Mrs. BONOAN-DANDAN

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The public part of the meeting was called to order at 4.25 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Belgium (E/1990/6/Add.18; E/C.12/Q/BELG/1; written replies to the list of issues prepared by the Government of Belgium (document without a reference number); HRI/CORE/1/Add.1/Rev.1) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Belgium resumed their places at the Committee table.

2. Mr. HUNT said he wished to put a supplementary question concerning the discriminatory nature of the cohabitation rule regarding social welfare already discussed under article 3. If he had understood correctly, in the early 1990s the Court of Justice of the European Communities had found that the cohabitation rule, which Belgium had justified on the grounds of budgetary considerations, constituted indirect discrimination against women. That being said, under the Covenant neither direct nor indirect discrimination could be justified on the grounds of such fiscal considerations. How did Belgium reconcile that indirect discrimination with its obligations under the Covenant?

3. Mr. RIEDEL said he would welcome the delegation's comments on the argument adduced by experts that there was no legal basis for the cohabitant category established by the law of 1980 - a view shared by the Council of State - the country's supreme administrative tribunal.

4. Mr. VANDAMME (Belgium) said it was true that Belgium had needed to review its unemployment regulations because of budgetary considerations. The Court of Justice of the European Communities had not upheld the differentiation between men's and women's wages on budgetary grounds: its case law on that issue was abundantly clear. It had, however, found the social grounds for differentiating between persons living alone and those cohabiting to be admissible. The Belgian regulation had thus been deemed by the Court to comply with the European Union Directive.

5. Mr. RIEDEL said the Belgian Council of State had found that enabling legislation required pursuant to a law other than a framework law must itself have the status of law, and that the law of 1980 was not a framework law. What would be the Belgian Government's reaction if the Committee decided that the category was unjustifiable or even illegal?

6. Mr. VANDAMME (Belgium) said he did not think the rule in question could be judged discriminatory under the Covenant on the grounds of fiscal considerations, which were not at issue.

7. Mr. HUNT asked whether the State party acknowledged that the cohabitation rule had a disproportionate impact on women.

8. Mr. VANDAMME (Belgium) conceded that the majority of persons in the cohabitant category were women, but stressed that the regulation instituting the category had not been drawn up on the basis of that consideration. The delegation would provide fuller information on the question at the following meeting.

9. The CHAIRPERSON invited members to turn to articles 6, 7 and 8 of the Covenant (numbers 13 to 21 of the list of issues).

10. Mr. ANTANOVICH, referring to article 8, asked what progress Belgium had made towards adoption of provisions laying down the criteria for broadening the representation of employers and workers on the National Labour Council (CNT) and on other bodies responsible for drawing up collective agreements, as it had been exhorted to do in the Committee's concluding observations on the second periodic report and by the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations. He recalled that for a number of years the Committee had been calling for the establishment of clear and objective criteria on the subject.

11. Mr. THAPALIA requested information on specific measures for protecting the ever-increasing elderly population and the disabled with regard to the labour market, and on their numbers and occupations.

12. Mr. GRISSA, noting the growing hostility to foreign workers in Belgium, reflected in the political success of right-wing groups in the Antwerp region whose sole appeal was their rejection of foreigners, asked what direct effect that trend had had on foreign workers.

13. Mr. AHMED, referring to articles 6 and 7, asked whether steps had been taken since 1998 to alleviate the plight of unemployed women. In that connection, he recalled that although in 1999 unemployment in Belgium had stood at 8.5 per cent - well below the 10 per cent rate for the European Union - according to the Economist Intelligence Unit the figure had been 60 per cent higher for women than for men, and thus one of the highest in the European Union. The issue of female unemployment had also been raised by the Committee on the Elimination of Discrimination against Women, which had noted the scant presence of women in public and political life, gender segregation in the workplace, and the continuing wage gap, as well as the higher unemployment rate among women, which had led to a "feminization" of poverty.

14. Mrs. JIMÉNEZ BUTRAGUEÑO, noting that Belgium's early retirement rate was among the highest in Europe, asked whether the country had succeeded in its efforts to ensure that persons over the age of 55 who wished to continue working could do so. It was her understanding that a number of programmes and institutions had been set up.

15. In 1998, in the context of its consideration of ILO Convention No. 122: Employment Policy, 1964, the ILO Committee of Experts on the Application of Conventions and Resolutions had raised concerns about high rates of unemployment and regional disparities. In the Walloon Region the unemployment rate had remained stable, whereas it had diminished in the Flemish Region. While unemployment had decreased among the adult population in general, among people aged under 25 it stood at more than 20 per cent. In 2000, the ILO Committee had noted

that the employment rate had improved but that it remained below the European average, because the secondary school enrolment rate remained low and the retirement age was earlier than in other European countries. In the context of ILO Convention No. 105: Abolition of Forced Labour, 1957, the ILO Committee had found that the legislation drafted to amend the disciplinary code for the merchant navy and fishing industry provided for disciplinary measures that amounted to forced labour. Perhaps the delegation could comment on the concerns expressed by the ILO Committee of Experts.

16. Mr. VANDAMME (Belgium), responding to the question about further legislative efforts in respect of trade union representation, said that studies were still being carried out but no draft legislation had yet been submitted. In the many discussions held with the Belgian trade unions, whose membership rate was among the highest in Europe, there had been no indication that they saw any need for change. Trade union freedom had been defined by legislation adopted in 1952 and had been refined in 1968, with the passage of collective bargaining provisions. In response to the recommendations made by the ILO Committee of Experts, an effort was being made to determine whether the relevant criteria should indeed be modified, but at ministry level there was considerable resistance to any change. The current system was exemplary, and a number of central and eastern European countries had shown interest in adopting it. Since there had been no major violations of trade union freedom in Belgium and the ILO Committee itself had not reiterated its criticisms, the Government was not convinced of the need for change.

17. The law established criteria according to which trade union representatives had the right to participate in the work of the National Labour Council. The Council responded to requests from ministries for advice on all draft legislation and employment and labour matters. Its membership had recently been expanded to include representatives of the non-commercial sector. The major trade unions had affiliates which negotiated collective agreements, of which there were an impressive number compared with other countries. Nothing pointed to a slackening in collective bargaining or an individualization of labour relations.

18. Regarding disabled persons and the elderly, the questions raised by the Committee revealed a certain weakness in the report's handling of the subjects, which would be remedied in the next report. Except in social security matters, the federal entities were responsible for measures to benefit the elderly and the disabled. A great many activities were carried out through a network of institutions on the basis of specific funding regulations. There was a growing realization that means must be found of coping with the dependency of the elderly: as far as was possible, they must be permitted to remain in familiar surroundings, rather than hospitalized prematurely because there were no other alternatives for their care. Belgium was contributing to the debate on the problem at the international level, inter alia, in the Council of Europe. Many NGOs were working on the problems of the elderly and the defence of their rights.

19. In response to a question from Mrs. Jiménez Butragueño, he said that many NGOs comprised elderly people working for the elderly and enabling them to put their capacities to the service of society. Such organizations were springing up throughout the country.

20. It was true that too many older persons had taken early retirement in Belgium. That was the result of a deliberate policy adopted in the 1970s and 1980s, when the economy had been

under serious stress and a major restructuring had been carried out. The policy was now being reconsidered, however, since it was costly and wasted human resources. Early retirement was one of a number of problems common to its member countries on which the European Union was attempting to coordinate action.

21. In response to Mr. Grissa's question whether there was any dissatisfaction at the presence of foreign workers in Belgium, he said that Belgium was a country of immigrants and that foreign communities had long coexisted side by side, particularly in Brussels, which was a truly international city. There were no problems with the integration of foreigners. Numerous measures were adopted to facilitate integration and there was an extensive network of associations devoted to the defence of foreign workers' rights. Because of tensions in the labour market and the need to implement the Community preference rule, the authorities had begun refusing work permits to non-European Union citizens, although exceptions were made in favour of highly specialized workers and in the context of family reunification.

22. As in all countries, tensions flared up from time to time in certain areas. However, Antwerp posed a particular problem as it was a major port and international crossroads. Furthermore a number of tragic incidents that had occurred there were attributable to dubious networks of which the authorities and the population were aware. However, the problem was further exacerbated by the fact that right-wing elements in the city had challenged the authorities' handling of the situation. The latest local elections had been intended to serve as a yardstick of the effectiveness of the measures introduced to stem far right activities. The elections had revealed that such efforts had been more successful in the south than in Antwerp, but it was the Government's intention to develop more effective measures, as the problem obviously could not be resolved in the short term. It should be reiterated, however, that the difficulties were attributable more to the country's geographical location and the existence of the aforementioned networks than to any generalized xenophobia.

23. As for female unemployment, there were indeed more unemployed women than men, for the reasons cited by Mr. Ahmed, including general underemployment of women and underestimation of their labour, which were not peculiar to Belgium. However, it was hoped that the European Union directives on equal treatment and the strict provisions applied by the Court of Justice of the European Communities would iron out those inequalities. As for what could be done to improve the lot of women in the job market, some people claimed that the provision conferring entitlement to unemployment benefits for an unlimited period was to blame for the problem. But that was a somewhat simplistic approach; the most effective solution was to increase the female employment rate through training and by facilitating women's re-entry into the job market after an absence for family-related reasons.

24. The State party did not intend to amend legislation prohibiting remunerated employment beyond a certain limit after early retirement, but preferred to curb excessive recourse to early retirement with the help of the European Union measures. As for the ILO Committee of Experts' comments relating to Belgium's implementation of ILO Convention No. 122, the State party had been grappling with the problem of underqualified school leavers, but the Government was conscious of the need to ensure that young people were better equipped for the job market. Although education was compulsory up to the age of 18, results were below expectations, even for graduates of vocational training courses. However, the Ministry of

Education planned to improve the situation, especially in the Walloon Region, by revitalizing vocational training programmes and enhancing cooperation between educational and training institutions and employers. Vocational training needed to be made more diversified and brought more closely into line with market demands. The Government was aiming to introduce changes, in line with European Union guidelines requiring member States to strengthen federal-regional cooperation so as to narrow the gap between employment policy-making and vocational training. An increasing number of synergies were being created, across linguistic borders and between educational institutions and ministries, with a view to devising integrated solutions. It was to be hoped that Belgium's next report to the Committee would reflect improvements in that area.

25. As for the ILO Committee of Experts' criticism of the draconian provision punishing insubordinate sailors whose conduct endangered the lives of passengers or the safety of the vessel, the European Committee of Social Rights, too, had sternly condemned that provision. The Ministries of Transport and Justice had been entrusted with the task of redrafting the legislation, but the bill was still pending because the transport authorities wished it to include the question of cargo. The matter had been brought before the European Committee of Social Rights and in the absence of a definitive reply from that body, the Government hoped to proceed with the proposed amendments.

26. Mrs. JIMÉNEZ BUTRAGUEÑO asked if there had been other cuts in social security and health budget appropriations due to the ageing population.

27. Mr. DONIS (Belgium) said that since the submission of the second report the Government had been making considerable efforts to protect the rights to social security and health. Orphans, widows and other vulnerable groups, such as the disabled, were provided with additional health insurance coverage. Another important measure not mentioned in the second periodic report was the "franchise sociale", which provided 100 per cent reimbursement of medical bills exceeding BF 15,000 annually. Subject to certain conditions, persons suffering from chronic illnesses were provided with an annual lump sum by the Government to cover the costs of treatment. The Government had also introduced a scheme, which had so far been offered only to persons over 60 but would be extended to all categories in due course, under which patients were offered a 30 per cent discount on their medical bills to encourage them to entrust all aspects of their health care to one general practitioner of their choice, the intention being to avoid the prohibitive costs of specialist medical care. The measure had met with resounding success: out of a total population of 10 million, approximately 2 million elderly persons had opted for the scheme.

28. The CHAIRPERSON invited Committee members to turn to issues concerning articles 9 and 10.

29. Mr. WIMER ZAMBRANO noted with satisfaction the radical and exemplary efforts made by the Government to dismantle paedophile and child pornography networks following the 1996 paedophile scandal, but said he would welcome fuller information concerning the social impact of the legislative and administrative measures taken.

30. Mr. ATANGANA, referring to the information in the written replies indicating that the annual number of divorces since 1995 amounted to at least half the number of marriages, asked whether that situation posed a threat to family stability.

31. Mr. ANTANOVICH asked for more information on the evolution of birth and abortion rates during the reporting period. How had the legalisation of abortion affected the Government's family support policies in the context of maintaining demographic stability?

32. Mr. AHMED, recalling an anomaly highlighted by the Committee on the Rights of the Child in 1995, wondered whether it was still the case that minors, whether or not accompanied, whose asylum requests were rejected by the Belgian authorities were permitted to remain in Belgium until they were 18 but were denied the right to receive any support.

33. Mr. SADI observed that, although the written replies described the legislation and measures introduced since 1995 to tackle prostitution, trafficking in human beings, child pornography and sexual abuse of minors, the Committee had not been provided with specific data relating to their impact. Was the delegation in a position to provide such information?

34. Mr. GRISSA, referring to the 1995 law intended to provide better protection for pregnant working women, asked for clarification of the employer's role in the process of deciding which activities might entail a specific risk to such employees. With regard to antenatal medical examinations within working hours, what happened if the employee, perhaps because of illness, was unable to comply with the requirement to inform her employer in advance?

35. Lastly, he asked the delegation to confirm the minimum working age and the age at which compulsory full-time schooling ended, in view of the situation described in the report whereby young workers, defined as minors 15 years of age or over who were no longer subject to compulsory full-time schooling, were permitted to work for up to 40 hours per week. How had that situation developed in Belgium, given that other western European countries made school attendance compulsory until 16 years of age and had introduced a 35-hour working week for adults?

36. Mr. RIEDEL asked whether it might not be counterproductive to allow illegal immigrants in clandestine employment to stay in Belgium, but then to deny them full social security rights. Surely the prospect of remaining on minimal social security benefits until retirement was an incentive not to regularize their situation?

37. Mr. VANDAMME (Belgium), referring to the question concerning implementation of the measures taken against paedophilia and pornography in the wake of the tragic events of 1996, said that extensive data on the implementation of the measures described in the second periodic report would not be available until the submission of the third report, but that he would endeavour to obtain as much information as possible in time for the next meeting in the current session. Given the international dimensions of the problem, Belgium was actively involved in the efforts to improve the international exchange of information between police forces and other agencies, particularly where Internet-related crime was concerned, and was also contributing to the work to establish common European legal machinery for obtaining criminal prosecutions. The extra-territoriality clause incorporated into the Criminal Code in 1995 had resulted in several

prosecutions in Belgium of persons found to have committed immoral acts abroad with children aged under 16. Belgium's unfortunate experience had alerted its neighbours to practices that had previously remained hidden.

38. With regard to Mr. Atangana's question on abortions and the stability of marriages, the law legalizing abortion had certainly not led to any spectacular increase in the practice. Belgium had an extensive network of centres offering advice on contraception and other related matters to couples and individuals. In some parts of the country, the network of associations providing such services was not always as effective as the authorities would like it to be.

39. Lastly, he was particularly concerned at the situation, highlighted by Mr. Ahmed, in which young asylum-seekers permitted to remain in Belgium were denied means of support. The delegation would report back to the Committee on that point at the next meeting.

The meeting rose at 6 p.m.